

Message Text

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ACTION IO-10

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FM USMISSION GENEVA

TO SECSTATE WASHDC 2512

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FOR KELLOGG AND SCHWEBEL

E.O. 11652: N/A

TAGS: SREF

SUBJ: TERRITORIAL ASYLUM-APRIL 30, 1975

1. FIFTH MEETING. US INTRODUCED NEW ARTICLE 3
AMENDING OLD ARTICLE 2 AND INDICATED CONSEQUENT CHANGES
IN NEW ARTICLE 5, OLD 4. COMMITTEE GENERALLY AGREED
WITH IDEA OF SEPARATING OUT ADMISSION AT THE FRONTIER
FROM REST OF NON-REFOULMENT. FRANCE SUGGESTED THAT
ADMISSION AT FRONTIER WAS ON A PROVISIONAL BASIS
PENDING DECISION ON PERSON'S ELIGIBILITY UNDER TOLD
ARTICLE 4 PROCEDURES, AND THAT SECOND SENTENCE OF US
PROPOSAL SHOULD ACCORDINGLY BE LINKED WITH CONSIDERATION
OF OLD ARTICLE 4. MEXICO, BELGIUM,
ZAIRE, AUSTRIA SUPPORTED. NO PARTICIPANT ADDRESSING
QUESTION OPPOSED CONSIDERING SECOND SENTENCE OF US
PROPOSAL IN CONTEXT OF OLD ARTICLE 4.

2. ASPECT OF US PROPOSAL CONTEMPLATING THAT STATE
USE ONLY ITS "BEST ENDEAVORS" TO ADMIT REFUGEES AT
FRONTIER GENERALLY DISPUTED. AUSTRIA, MEXICO, SWEDEN,
ITALY, AND UK PROPOSED DELETION OF "BEST ENDEAVORS"
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IN SECOND SENTENCE, SO THAT ADMISSION AT FRONTIER

WOULD BE UNQUALIFIED OBLIGATION. DESPITE SEVERAL INTERVENTIONS BY US, IT SEEMS CLEAR THAT MEMBERS OF COMMITTEE NOT WILLING TO SEE ADMISSION AT FRONTIER QUALIFIED BY "BEST ENDEAVORS".

3. USSR CONTINUED DISRUPTIVE EFFORTS IN DISCUSSION OF THIS AND OTHER ARTICLES TODAY IN EFFORTS TO REDUCE CONSTRUCTIVE NATURE OF END PRODUCT EVEN FURTHER. FOR INSTANCE, THEY URGED THAT PHRASE "ENTITLED TO BENEFITS OF THIS CONVENTION" IN US PROPOSAL BE CLARIFIED, THUS SEEKING TO REOPEN DISCUSSION OF ARTICLE 1. THEY ALSO URGED THAT US PROPOSAL SHOULD DISTINGUISH BETWEEN THOSE PERSONS WHO ATTEMPT TO ENTER AT LAWFUL ENTRY POINT AND THOSE WHO CROSS BORDER AT SOME OTHER PLACE. ALSO SOUGHT TO HAVE ARTICLE SUBJECT TO BILATERAL BORDER AGREEMENTS BETWEEN STATES.

4. OLD ARTICLE 4 (OUR 5). US INTRODUCED PROPOSED AMENDMENTS. DESPITE US INTERVENTIONS, THE SAME LACK OF SUPPORT FOR RESTRICTIONS ON ADMISSION AT THE FRONTIER WHICH AROSE DURING THE DISCUSSION OF OLD ARTICLE 2 (OUR 3) WAS REFLECTED IN THE LACK OF SUPPORT FOR US PROPOSALS. UK AND NIGERIA SPECIFICALLY CRITICIZED OUR AMENDMENTS, AND WERE COUNTERED BY US. SEVERAL STATES ALSO CONTEMPLATED PROPOSALS TO DELETE PROCEDURAL REQUIREMENTS IN OLD ARTICLE 4 WHICH STATE SHOULD FOLLOW IN DECIDING ON REQUEST FOR ASYLUM: ITALY, URUGUAY, BELGIUM, INDIA, MEXICO, AND SWEDEN.

5. AT SIXTH MEETING CONSIDERATION OF OLD ARTICLE 5 REFLECTED UNDERSTANDABLE DIVERGENCE BETWEEN STATES OF FIRST ASYLUM AND OTHER STATES. ITALY AND AUSTRIA THOUGHT EXISTING PROPOSAL TOO WEAK SINCE COUNTRIES OF FIRST ASYLUM BEAR MAJOR BURDEN. NIGERIA CONSIDERED COMPULSORY SHARING OF BURDENS ACCEPTABLE ON HUMANITARIAN GROUNDS, WHICH POSITION WAS INFERENTIALLY SUPPORTED BY INDIA. US INTRODUCED AMENDMENTS TO GIVE MORE DISCRETION TO OTHER STATES IN PROVISION OF IMMIGRATION AND UNCLASSIFIED

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FINANCIAL ASSISTANCE TO STATE OF FIRST ASYLUM, WITH WHICH AUSTRALIA AND OTHERS CONCURRED. FINAL CONSIDERATION POSTPONED PENDING AVAILABILITY OF WRITTEN PROPOSALS WHICH INDIA AND AUSTRALIA INTEND TO INTRODUCE.

6. DISCUSSION OF OLD ARTICLE 6 ON VOLUNTARY REPATRIATION WAS INITIATED BY ITALY WHICH PROPOSED

"NOT PUT OBSTACLES" INSTEAD OF "FACILITATE". IN PURSUANCE OF OBJECTIVE OF ITS POSITION, US SUPPORTED, AS DID FRANCE. CHAIRMAN, AS AUSTRIAN REP, SUGGESTED "OUT OF HIS OWN FREE WILL". TO REPLACE "VOLUNTARY AND IN FULL FREEDOM". US SUPPORTED CHANGE.

7. USSR SUGGESTED PROVISION UNDER WHICH PERSON WOULD BE PERMITTED TO REPATRIATE ONLY WHEN CONDITIONS IN HOMELAND THAT GAVE RISE TO HIS SEEKING ASYLUM HAD BEEN CHANGED. US RESPONDED THAT CONVENTION SHOULD NOT PROHIBIT A PERSON FROM VOLUNTARILY RETURNING TO STATE OF ORIGINAL RESIDENCE. ITALY SUPPORTED US.

8. WITH RESEPECT TO OLD ARTICLE 7, US INTRODUCED PROPOSAL TO REPLACE PROVISION THAT IN GRANTING OF ASYLUM STATE "SHALL" CONSULT UNHCR WITH PROVISION THAT IT "MAY" CONSULT. ITALY SUPPORTED US PROPOSAL. UK THOUGHT UNHCR SHOULD PLAY STRONGER ROLE.

9. US PROPOSAL FOR AN ADDITIONAL SENTENCE AT END OF OLD ARTICLE 7 THAT REFUGEES SHOULD BE PERMITTED, IF THEY SO DESIRE, TO MAKE CONTACT WITH OFFICE OF UNHCR SPARKED SHORT, SPIRITED SERIES OF EXCHANGES BETWEEN US AND USSR. LATTER CONTENDED THAT PROPOSAL UNNECESSARY. US INSISTED THAT PROPOSAL WAS USEFUL, COMPATIBLE WITH PURPOSES OF DRAFT CONVENTION, WITH ARTICLE 35 OF 1951 CONVENTION AND WITH ARTICLE II OF REFUGEE PROTOCOL. DALE

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